

**Massachusetts Trial Court
Frequently Asked Questions
Centers for Disease Control and Prevention (“CDC”) Eviction Moratorium Order
(October 13, 2020)**

Disclaimer: The information below is not legal advice. You should speak to a lawyer if you have questions or need legal advice about an eviction. The information below may change at any time.

Question: What is the CDC eviction moratorium order?

Answer: In general, the CDC eviction moratorium order, often referred to as the “CDC Order,” may provide protection from eviction for non-payment of rent to people who meet certain requirements outlined by the CDC in its eviction moratorium Order (“CDC Order”).

Question: Where can the CDC Order be found?

Answer: The CDC Order can be found online:
<https://www.federalregister.gov/documents/2020/09/04/2020-19654/temporary-halt-in-residential-evictions-to-prevent-the-further-spread-of-covid-19>.

Question: Is the CDC Order applicable in Massachusetts?

Answer: There is a state eviction moratorium in place in Massachusetts until October 17, 2020. Unless the state eviction moratorium is extended, the CDC Order will apply to Massachusetts residents beginning on October 18, 2020.

Question: How long does the CDC Order last?

Answer: The CDC Order is currently set to expire on December 31, 2020.

Question: Does the CDC Order apply to all eviction cases?

Answer: No. The CDC Order only protects residents who may be evicted because they did not pay rent. The CDC Order does not apply to commercial properties, foreclosures on a home mortgage, and eviction cases where, for example, a landlord alleges a tenant or occupant (1) engaged in criminal activity on the premises; (2) threatened the health or safety of other residents; (3) damaged or poses an immediate and significant risk of damage to property; (4) violated any applicable building, health, or similar code or regulation concerning health and safety; or (5) violated any other lease or contractual obligation, other than the payment of rent.

Question: To whom does the CDC Order apply?

Answer: The CDC Order generally protects residential tenants or lessees, and applies to landlords, owners of residential property, or persons or entities with a legal right to pursue an eviction or possessory action against a residential tenant or lessee.

Question: What does a tenant need to do in order to be protected by the CDC Order?

Answer: Each tenant must give his/her landlord a signed declaration certifying under oath that he/she meets the requirements listed in the CDC Order.

Question: What is the declaration referenced in the CDC Order?

Answer: A declaration is a sworn statement in which a tenant certifies that he/she meets the requirements in the CDC Order to be protected from eviction. The CDC has created a form for tenants to use, but tenants can also give their landlord their own declaration, as long as it contains the requirements listed in the CDC Order and is made under penalty of perjury. The CDC Declaration form can be found online: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/declaration-form.pdf>.

Question: Are tenants still required to pay rent during the time the CDC Order is effective?

Answer: Yes. The CDC Order does not relieve any individual of any obligation to pay rent, make a housing payment, or comply with any other obligation that the individual may have under a tenancy, lease, or similar contract.

Question: Can a landlord charge or collect fees, penalties, or interest as a result of the failure to pay rent or other housing payments on a timely basis, under the terms of any applicable contract?

Answer: Yes. The CDC Order does not prevent a landlord from charging or collecting fees, penalties, or interest under the lease or contract as a result of the failure to pay rent or other housing payment on a timely basis.

Question: What is the court requiring landlords, including property owners, to do in eviction cases that may be affected by the CDC Order?

Answer: In any eviction case that includes a claim for non-payment of rent, a landlord must file an Affidavit form, which will be available on the Trial Court's website. The landlord is required to state, under oath, whether the landlord has received a declaration from a tenant seeking protection under the CDC Order. The Affidavit form must be filed:

- Upon the entry (filing) of a new eviction case that includes a claim for non-payment of rent.
- On or before the date of the first-tier court event (Housing Court) or the case management conference (District Court or Boston Municipal Court) in a pending eviction case that includes a claim for non-payment of rent.
- Prior to the entry of judgment (court's order) in an eviction case that includes a claim for non-payment of rent.
- At the time of a request for the issuance of an execution (the court order that allows a landlord to evict a tenant).